The Commonwealth of Massachusetts

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

March 31, 2005

D.T.E. 03-88A-F

Investigation by the Department of Telecommunications and Energy on its own motion, pursuant to G.L. c. 164 §§ 1A(a), 1B(d), 94; and 220 C.M.R. § 11.04, into the costs that should be included in default service rates for Boston Edison Company, Cambridge Electric Light Company, Commonwealth Electric Company, Fitchburg Gas and Electric Light Company, Massachusetts Electric Company and Nantucket Electric Company, and Western Massachusetts Electric Company.

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ORDER ON OFFER OF SETTLEMENT

I. INTRODUCTION

On November 17, 2003, the Department of Telecommunications and Energy ("Department") issued an Order requiring certain default service-related costs currently recovered in base distribution rates instead to be recovered through default service rates and directed all electric distribution companies to submit filings in compliance with that Order. Costs to be Included in Default Service, D.T.E. 03-88 (2003). Specifically, the Department directed each electric distribution company to identify the following categories of default service costs to be removed from base distribution rates: (1) wholesale costs, which are costs associated with the procurement of default service supply (e.g., costs to run competitive bidding process and the costs to administer and execute contracts with suppliers); and (2) direct retail costs, which are costs incurred strictly on behalf of its default service customers (e.g., bad debt, cost of activities to implement a change in default service rates, costs associated with the environmental disclosure label, and costs of complying with the renewable portfolio standards). Id. at 2-4. The Department required each distribution company to propose appropriate rate adjustments for their default service and distribution service, such that the identified costs associated with default service will be recovered through default service rates. Id. at 4-5.

On January 20, 2004, Boston Edison Company ("BECo"), Cambridge Electric Light Company ("Cambridge"), Commonwealth Electric Company ("Commonwealth") (together, "NSTAR"); Fitchburg Gas and Electric Light Company ("Fitchburg"); Massachusetts Electric

Company and Nantucket Electric Company (together, "MECo"); and Western Massachusetts Electric Company ("WMECo"); in compliance with D.T.E. 03-88, submitted filings to the Department regarding costs recovered in distribution rates that they propose to be transferred to default service rates. The Department docketed these filings as Boston Edison Company, D.T.E. 03-88A; Cambridge Electric Light Company, D.T.E. 03-88B; Commonwealth Electric Company, D.T.E. 03-88C; Fitchburg Gas and Electric Light Company, D.T.E. 03-88D; Massachusetts Electric Company and Nantucket Electric Company, D.T.E. 03-88E; and Western Massachusetts Electric Company, D.T.E. 03-88F.

On March 11, 2004, the Department conducted a joint public hearing and procedural conference in D.T.E. 03-88A-F. The Attorney General filed notices of intervention pursuant to G.L. c. 12, § 11E in D.T.E. 03-88A-F. At the procedural conference, the hearing officer allowed a petition for leave to intervene in D.T.E. 03-88A-F by the Low-income Weatherization and Fuel Assistance Network and Massachusetts Community Action Program Directors Association, Inc. (together, "MASSCAP") (Tr. at 16, 22, 28, 31). The hearing officer also allowed the following requests for limited participant status: (1) Cape Light Compact,[1] Fitchburg, MECo, and WMECo in D.T.E. 03-88A, D.T.E. 03-88B, and D.T.E. 03-88C; (2) MECo, NSTAR, and WMECo in D.T.E. 03-88D; (3) Fitchburg, NSTAR,

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[1] The Cape Light Compact was formed in 1997 through an intergovernmental agreement of 21 towns and two counties for the purpose of establishing competitive power supply, energy efficiency, and consumer advocacy. The Cape Light Compact consists of the Towns of Aquinnah, Barnstable, Bourne, Brewster, Chatham, Chilmark, Dennis, Eastham, Edgartown, Falmouth, Harwich, Mashpee, Oak Bluffs, Orleans, Provincetown, Sandwich, Tisbury, Truro, Wellfleet, West Tisbury, Yarmouth, and the Counties of Barnstable and Dukes.

and WMECo in D.T.E. 03-88E; and (4) Fitchburg, MECo and NSTAR in D.T.E. 03-88F (Tr. at 8, 17, 23, 28). On August 2, 2004, the hearing officer allowed the petitions to intervene of the Division of Energy Resources ("DOER"), Constellation NewEnergy, Inc. ("Constellation"), Dominion Retail, Inc. ("Dominion"), Select Energy, Inc. ("Select"), and the Associated Industries of Massachusetts ("AIM") in D.T.E. 03-88A-F (D.T.E. 03-88A-F, Hearing Officer Ruling, August 2, 2004).

On December 13, 2004, the Department conducted evidentiary hearings in D.T.E. 03-88A through D.T.E. 03-88D. On December 14, 2004, the Department conducted evidentiary hearings in D.T.E. 03-88E and D.T.E. 03-88F. The evidentiary record for each proceeding consists of the following: (1) D.T.E. 03-88A through D.T.E. 03-88C - 21 exhibits and four responses to record requests; (2) D.T.E. 03-88D - 14 exhibits and one record request response; (3) D.T.E. 03-88E - 25 exhibits; and (4) D.T.E. 03-88F - 21 exhibits and one record request response.

On January 21, 2005, AIM, the Attorney General, Fitchburg, MECo, NSTAR, and WMECo submitted an offer of settlement ("Settlement") intended to resolve all outstanding issues in these proceedings. The Settlement will be withdrawn unless approved by the Department on or before March 31, 2005 (Settlement at ¶ 3.5).[2] On January 31, 2005, comments on the proposed Settlement were filed individually by the Cape Light Compact and

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[2] On February 18, 2005, AIM, the Attorney General, Fitchburg, MECo, NSTAR, and WMECo extended the deadline for approval of the Settlement from February 18, 2005 to March 18, 2005. On March 18, 2005, AIM, the Attorney General, Fitchburg, MECo, NSTAR, and WMECo agreed to extend the deadline until March 31, 2005 (Letter from NSTAR to the Department (March 28, 2005)).

jointly by Constellation and Dominion. On February 4, 2005, NSTAR submitted reply comments.

II. DESCRIPTION OF THE SETTLEMENT

The Settlement is intended to resolve all issues in dockets D.T.E. 03-88A through D.T.E. 03-88F (Settlement at ¶ 1.7). The Settlement transfers the recovery of certain default service-related costs from distribution rates to default service rates beginning, for each distribution company, on the first date after March 1, 2005 on which its default service rates change for all classes of customers (Settlement at ¶ 2.3).[3]

As part of the Settlement, each distribution company (1) identified the amount of wholesale costs and direct retail costs to be transferred, and (2) calculated rate increases for default service and corresponding decreases for distribution rates to transfer recovery of those costs.[4] The Settlement provides that the amount of transferred default service-related costs will be fixed until a distribution company's next general distribution rate case, with the exception of

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[3] Each distribution company's default service rates will change for all classes of customers on the following dates: MECo - May 1, 2005; Fitchburg - June 1, 2005; NSTAR - July 1, 2005; and WMECo - July 1, 2005.

[4] In Fitchburg's last rate case, Fitchburg Gas and Electric Light Company, D.T.E. 02-24/25, at 170-171 (2002), bad debt associated with default service was removed from base distribution rates and deferred for recovery in this proceeding. Therefore, Fitchburg proposes to increase its default service rates by $349,262 and its decrease distribution rates by $69,633. Each remaining distribution company proposes to decrease its distribution rates and correspondingly increase its default service rates by the following amounts: (1) BECo - $6,574,515; (2) Cambridge - $300,721; (3) Commonwealth - $1,293,128; (4) MECo - $7,915,060; and (5) WMECo $2,042,928 (Settlement at Appendices).

Fitchburg whose bad debt and working capital will change as provided by its default service tariff, M.D.T.E. No. 114 (Settlement at ¶ 2.4).

The Settlement provides that the transferred costs will be wholesale costs (i.e., default service procurement costs) and direct retail costs (i.e., bad debt, cost of activities to implement a change in the default service rate, costs associated with the environmental disclosure label, and costs of complying with the renewable portfolio standards) as defined in D.T.E. 03-88 (id.). The majority of the costs to be transferred are bad debt-related (Settlement at Appendices).

The Settlement provides that NSTAR allocates default service-related bad debt based on total revenues, while the other distribution companies directly assign such costs (Settlement at Appendices). The Settlement was subsequently amended to require NSTAR to recompute the calculation of bad debt based on its actual bad debt experience (Letter from NSTAR to the Department (March 28, 2005)) ("Revised Settlement").[5]

The Settlement provides that any transfer of cost recovery from base distribution rates to default service rates will be revenue-neutral to the distribution company (Settlement

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[5] Specifically, the Settlement was amended to include the following language:

> The Settling Parties agree that NSTAR Electric shall file no later than June 1, 2005, an update of its Settlement Appendix that will recalculate the bad-debt amounts based on the actual bad-debt experience of Default Service and Standard Offer Service Customers.

Revised Settlement at ¶ 2.4, n.*.

at ¶ 2.1).[6] To ensure that cost recovery remains revenue-neutral, each distribution company will perform an annual reconciliation of revenue recovery to account for any differences in sales volume and confirm that the cost to be collected in default service equal the revenue reductions implemented through lower distribution rates (Settlement at ¶ 2.6). Each distribution company will propose adjustments to its default service rates and distribution rates to adjust for any over- or under-collection computed in the annual reconciliation (Settlement at ¶ 2.7). The Settlement permits a distribution company to seek an interim change in default service rates or distribution rates if significant over- or under-collections are expected to occur (Settlement at ¶ 2.7).

III. POSITION OF THE COMMENTERS

A. Cape Light Compact, Constellation, and Dominion

The Cape Light Compact, Constellation, and Dominion take issue with NSTAR's use of a less accurate allocation method to calculate default service-related bad debt instead of tracking the actual bad debt associated with default service (Cape Light Compact Comments at 2-3, Constellation and Dominion Comments at 2).[7] In addition, the Cape Light Compact argues that the Department should reject the Settlement because it fixes the costs used to

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[6] Although the transferred costs are to be recovered in default service rates, for accounting, ratemaking and all other purposes, these costs and revenues will be treated as base distribution costs and revenues (Settlement at ¶ 2.2).

[7] As stated above, AIM, the Attorney General, Fitchburg, MECo, NSTAR, and WMECo have subsequently amended the Settlement to require NSTAR to recompute its calculation of bad debt and update its Settlement Appendices accordingly (Revised Settlement at ¶ 2.4, n.*).

calculate default service rates at 2003 levels until a distribution company's next rate case (id. at 3-4).

B. NSTAR

NSTAR argues that the Cape Light Compact's proposal to require an annual update of costs to account for routine load growth that will have little or no impact on the overall magnitude of rates is unreasonable and inconsistent with Department ratemaking practices (NSTAR Comments at 8). Instead, NSTAR argues that the Settlement appropriately provides for an adjustment to capture material changes (id., citing Settlement at ¶ 2.4).

IV. STANDARD OF REVIEW

In assessing the reasonableness of an offer of settlement, the Department must review all available information to ensure that the settlement is consistent with Department precedent and the public interest. Fall River Gas Company, D.P.U. 96-60 (1996); Essex County Gas Company, D.P.U. 96-70 (1996); Boston Edison Company, D.P.U. 92-130-D at 5 (1996); Bay State Gas Company, D.P.U. 95-104, at 14-15 (1995); Boston Edison Company, D.P.U. 88-28/88-48/89-100, at 9 (1989). A settlement among the parties does not relieve the Department of its statutory obligation to conclude its investigation with a finding that a just and reasonable outcome will result. Bay State Gas Company, D.P.U. 95-104, at 15 (1995); Boston Edison Company, D.P.U. 88-28/88-48/89-100, at 9 (1989).

V. ANALYSIS AND FINDINGS

The Department has evaluated the provisions of the Revised Settlement in light of the record in these proceedings, including the information submitted by the distribution companies

in their original filings and the appendices attached to the proposed Settlement. The Department notes that the Revised Settlement is supported by several entities representing a broad range of interests, including residential, business, and low-income customers (Settlement Cover Letter at 1). The Revised Settlement provides for rate adjustments for each distribution company in accordance with the Department's directives in D.T.E. 03-88, at 4-5 (Revised Settlement at ¶¶ 2.1, 2.4). In addition, consistent with D.T.E. 03-88, at 4-5, the Revised Settlement provides that the proposed adjustments to default service and distribution rates will be revenue-neutral for each distribution company (Revised Settlement at ¶¶ 2.6, 2.7).

While Constellation and Dominion do not object to the Settlement, they take issue with NSTAR's allocation method for calculating the bad debt component of costs to be included in default service rates (Constellation and Dominion Comments at 1). Similarly, the Cape Light Compact argues that the Department should not approve the Settlement unless NSTAR is required to track actual bad debt related to default service (Cape Light Compact Comments at 2-3). These concerns are moot as the Settlement has subsequently been amended to require NSTAR calculate its bad debt amounts based on actual bad debt experience (Revised Settlement at ¶ 2.4, n.*).

The Cape Light Compact also argues that the Department should direct the distribution companies to update bad debt costs to account for load growth as part of their annual default service filings, instead of using the default service cost level for 2003 (Cape Light Comments at 5). However, the costs that are being transferred for recovery through default service rates are the type that have previously been collected by the distribution companies through base

distribution rates. As such, the Department does not allow dollar-for-dollar recovery; instead we allow a representative level to be placed in rates that remains constant until the next rate case.

Accordingly, based on the Department's review of the record in this proceeding, we find that the Revised Settlement results in just and reasonable rates and is consistent with Department precedent and the public interest. Therefore, the Department approves the Revised Settlement. We note that our acceptance of the Revised Settlement does not set a precedent for future filings whether ultimately settled or adjudicated.

VI. ORDER

After due notice, hearing, and consideration, it is

ORDERED: That the Joint Motion to Approve an Offer of Settlement, submitted by Boston Edison Company, Cambridge Electric Light Company, Commonwealth Electric Company, Fitchburg Gas and Electric Light Company, Massachusetts Electric Company and Nantucket Electric Company, Western Massachusetts Electric Company, the Attorney General of the Commonwealth, and the Associated Industries of Massachusetts on January 21, 2005, as revised on March 28, 2005, is ALLOWED; and it is

FURTHER ORDERED: That Boston Edison Company, Cambridge Electric Light Company, Commonwealth Electric Company, Fitchburg Gas and Electric Light Company, Massachusetts Electric Company and Nantucket Electric Company, and Western Massachusetts Electric Company comply with all other directives contained in this Order.

By Order of the Department,

/s/

Paul G. Afonso, Chairman

/s/

James Connelly, Commissioner

/s/

W. Robert Keating, Commissioner

/s/

Judith F. Judson, Commissioner

An appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part. Such petition for appeal shall be filed with the Secretary of the Commission within twenty days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of the twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. G.L. c. 25, § 5.